

UNDERSTANDING AND SEALING CRIMINAL RECORDS IN OHIO

A joint publication by:



OHIO JUSTICE & POLICY CENTER
Reclaiming Lives. Renewing Communities. Restoring Justice.

and



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The Ohio Justice & Policy Center and the Second Chance Project

The Ohio Justice & Policy Center (OJPC) is a Cincinnati-based nonpartisan, nonprofit law firm representing people marginalized by the criminal justice system and advocating for local and statewide smart-on-crime reform. Through outreach legal clinics, community classes, litigation, advocacy, research, and collaborative initiatives, OJPC is *reclaiming lives, renewing communities, and restoring justice*.

OJPC's Second Chance Project works to remove legal barriers that prevent adults and youth with criminal records from becoming productive members of society.

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Ohio Poverty Law Center

OPLC is the legal services state support center in Ohio. OPLC attorneys are experienced poverty law advocates who advocate on systemic impact issues and provide assistance to the six legal services regions in the Ohio legal services community. OPLC's work includes policy advocacy, litigation support, specialty assistance and consulting, trainings, task forces, publications, strategic communications, and technology resource assistance.

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Disclaimer

This guide is a general source of information about criminal records and expungement. It is *not* a substitute for individualized legal advice. For answers to specific questions, it is best to consult an attorney.

To get a digital copy of this guide or for any questions about its content, please contact the Ohio Justice & Policy Center or the Ohio Poverty Law Center.

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What is a Criminal Record?

A criminal record is not one thing. There are numerous versions of a criminal record or a “rap sheet” and they may all have different information. These are the most common types:

County Conviction Record Transcript

Where to get it: Your county sheriff’s office (e.g., Hamilton County Justice Center, 1000 Sycamore Street, Cincinnati, Ohio.)

Cost: ~\$5.00 (varies by county)

These are sometimes referred to as ‘**police checks**’ even when they are produced by the sheriff’s office. They include all convictions that occurred in that county, but they exclude crimes in other counties and charges not resulting in a conviction (cases ignored or dismissed, or defendant found not guilty). Also, these background checks do not reveal expunged offenses. Certain employers may request that applicants obtain a “police check” before being hired.

Clerk of Courts Website

Where to get it: Online (e.g., www.courtclerk.org for Hamilton County)

Cost: Free

Anyone in the general public – including landlords, employers, and educational programs – can view a limited criminal record check of any individual by accessing the clerk of courts website for any particular county. Free of charge, such websites reveal *any* case that has a person’s name associated with it, including non-expunged criminal convictions, civil cases, and arrests that did not lead to a conviction. Most of these websites only reach back a certain number of years. That is, each clerk of courts began putting its cases online at a particular time in the past; cases before that time can be found in the paper files in the clerk’s archive, but will not show up on the website.

Commercial Background-Checking Companies

Where to get it: Usually online (e.g., HireRight, General Information Services, NetDetective)

Cost: Varies

Dozens of companies, most of which operate offer their services over the internet, provide criminal record information to employers, landlords, and others reviewing the backgrounds of applicants. Companies conducting these searches are subject to the Fair Credit Reporting Act (FCRA) and can report all non-expunged convictions within the United States for someone’s entire life. These services can also report any arrests not leading to conviction that occurred within seven years of the check. A person must grant permission for others to request a private background check on their name. If employers do not hire a person based on a background check, they must notify the applicant about which service provided the check. **If an applicant believes that the check is incorrect or outdated, she should contact the Ohio Justice & Policy Center or the legal aid office that serves her area immediately for legal help. Legal aid office information can be found at <http://www.ohiolegalservices.org/programs> or by calling 1-866-LAW-OHIO.**

BCI and FBI Background Checks

Where to get it: Any approved WebCheck location (see list at: [http://www.ohioattorneygeneral.gov/ Services/Business/WebCheck/Webcheck-Community-Listing.aspx](http://www.ohioattorneygeneral.gov/Services/Business/WebCheck/Webcheck-Community-Listing.aspx)).

Cost: BCI, \$32; FBI, \$34; Both, \$61

The State of Ohio Bureau of Criminal Identification and Investigation (“BCI&I,” or sometimes referred to as just “BCI”) provides official criminal conviction records for Ohio only. The Federal Bureau of Investigation (“FBI”) provides official nation-wide checks. These are the most accurate and comprehensive. A person’s fingerprints and permission are required to run the check. The resulting report includes all convictions and, depending on who requests the search, may also include expunged offenses. For example, if a health-care employer obtains permission to run a BCI check on an applicant, the employer may disqualify the applicant from employment based solely on certain expunged convictions.

What Appears on Various Background Checks

**This Chart
Applies to
Adult Records Only**

Background Checks	Non-Convictions	Convictions	Penalties	Expunged Offenses	Locations Covered by Check
Conviction Record Transcript for single county		X	X		Only that county
Clerk of Courts website	X	X	X		Only that county
Commercial background check company	X 7 yrs	X	X		Statewide or Nationwide
Bureau of Criminal Identification and Investigations WebCheck (“BCI Check”)	X	X	X	X depending on employer	Statewide
FBI Background Checks	X	X	X	X always	Nationwide

The Fair Credit Reporting Act

The Fair Credit Reporting Act (FCRA) governs commercial criminal record reporting agencies. There are requirements by the FCRA for the agencies reporting as well as the employers who use the reports from the agencies.

Requirements for commercial criminal record reporting agencies:

- Agencies can report convictions of any age. Agencies may not report arrests or other non conviction cases that are more than 7 years old.
- Agencies must insure that their information is correct, complete, and up to date.
- If the agency is reporting information that may be harmful, they must notify the person of the record and provide the name and address of the person requesting the information.

Requirements for employers using commercial criminal record reporting agencies:

- The employer must let the applicant know that it may obtain a report from an agency. It must also receive permission from the applicant to get the report. Ex offenders must be made aware that their criminal record will be examined.
- If the employer chooses to take action based on negative information in the report, a copy of the report and a Federal Trade Commission Summary of Rights must be given to the job applicant before action is taken.
- If a final decision is based on the report, the employer must provide the name, address, and telephone number of the agency.

Your rights under the FCRA:

- Your information can only be disclosed to your employers if they have your written consent.
- You must be told if any information in your file has been used against you.
- You have the right to know what is in your file. You may receive full disclosure of your file if:
 - A person has taken negative action based on information in your report.
 - You are on public assistance.
 - You are unemployed but expect employment in 60 days.
- You have the right to dispute incomplete or inaccurate information. The agency must correct inaccurate information. **Contact Ohio Justice & Policy Center or a legal aid office for assistance in getting a correction. Legal aid office information can be found at <http://www.ohiolegalservices.org/programs> or by calling 1-866-LAW-OHIO.** Alternatively, you can pursue the correction yourself using the model letter on the next page. You should keep complete copies of the letter and other documentation and send the letter and documentation via a trackable method (i.e. Certified Mail/Return Receipt Requested)
- You may seek money damages if an employer using an agencies' report or the commercial criminal reporting agency violates the FCRA.

Correcting a Commercial Background Check

If there is a problem with your background check provided by a commercial background check agency, you can contact the agency to get the information corrected. You can correct the inaccurate information by getting a certified court record and sending it to the agency with a cover letter stating the information that you would like to be corrected.

Sample Cover Letter:

<p>[date]</p> <p>[Name of Commercial Background Agency] [Address of Agency]</p> <p>To Whom It May Concern:</p> <p>I am writing to request a correction to my criminal background check. Currently, your records show my case as: [precisely state what the background check says]. I have enclosed a copy of my criminal background check with the error(s) circled in red.</p> <p>But I was not convicted of [...]. I have enclosed a copy of certified court records from [name of county, common pleas, or municipal court] for case number [...] that show that I was actually convicted of [precisely state final charge]. Please add this final disposition information to my Computerized Criminal History entry for this case.</p> <p>Also, please send me a revised version of my background check once this correction is made. If you have any questions about this correction request, please contact me at [area code + phone number].</p> <p>Sincerely, <i>signature</i> [Name] [full mailing address]</p>

Correcting a State Record

If there are problems with your state record, you can contact the Bureau of Criminal Identification and Investigation (BCI). You can correct an inaccurate state record by getting a certified court record and sending it to BCI with a cover letter listing the corrections that need to be made. Once the record is fixed at the state level with the BCI, the corrections will instantly be recognized by the FBI.

Sample Cover Letter:

[date]

Bureau of Criminal Identification and Investigation
P.O. Box 365
London, OH 43140

To Whom It May Concern:

I am writing to request a correction to my BCI criminal check. Currently, your records show my case as:
[precisely state what BCI check says].

But I was not convicted of [...]. I have enclosed a copy of certified court records from [name of county, common pleas, or municipal court] for case number [...] that show that I was actually convicted of [precisely state final charge]. Please add this final disposition information to my Computerized Criminal History entry for this case.

Please be certain to electronically notify the FBI of this correction so that that office can also correct its records.

Also, please send me a revised version of my BCI check once this correction is made. If you have any questions about this correction request, please contact me at [area code + phone number].

Sincerely,
signature
[Name]
[full mailing address]

Introduction to Sealing of an Adult Criminal Record

What is sealing of a record?

When people talk about having a record “expunged,” they usually think this process will completely erase their criminal record, as if it never happened. However, in Ohio, adult convictions cannot be “expunged” or completely erased from your record. Instead of expungement, Ohio uses a court process called “sealing a criminal record.” When a record is sealed, the record of your conviction or criminal charges is filed separately from other persons’ records. The record still exists but it cannot be seen by most people. But there are some significant exceptions, discussed below.

Why should I get my records sealed?

Sealing a criminal record—even a non-conviction—may prove valuable when applying for a job or license, seeking credit, applying for educational programs, obtaining housing, and securing other opportunities. In most cases, an sealed record will not show up on a background check and can be treated as if it does not exist. In fact, after getting a record sealed, an individual may honestly mark on applications that the sealed offense does not exist.

You can’t seal it unless you know what it is.

There are several different processes for sealing criminal records. To decide which process you should use, you *must* know what type of record you want sealed. Is there a conviction, dismissal, or not guilty finding on your record? The easiest way to find this information is to get a copy of your criminal record. In many counties you can go online and look up your criminal record. Go to the clerk’s of courts website for the court your case was handled in; this could be common pleas, municipal, or juvenile court. If your county doesn’t have records online, you need to go to the clerk of courts office in the county where you were convicted or arrested.

Can anyone see the records after they are sealed?

Most employers, all landlords, and anyone else will not be able to access sealed records. Sealed records are sometimes mistakenly disclosed by commercial background-checking companies—if this happens to you, contact your local legal aid or the Ohio Justice & Policy Center for help. By law, however, certain employers, officials, and agencies are allowed to see sealed records on BCI checks:

- Prosecutors, judges, and police if there are future criminal investigations;
- Judges considering convictions for sentencing in future crimes;
- Employers in law enforcement, jobs working with children or the elderly (e.g. schools, daycares, and health-care services), and some jobs in real-estate and financial institutions; and
- Most state professional-licensing boards, such the State Accountancy Board, State Medical Board, State Dental Board, State Board of Nursing, State Board of Psychology, and others, for the purposes of license denial, suspension, or revocation.

Can I get some help with sealing my records?

You can apply for record sealing and succeed without an attorney. But the prosecutor may object to your application and the judge may reject it for reasons you do not fully understand. Most legal aid offices in Ohio will assist with applying for record sealing (in Hamilton County, the Ohio Justice & Policy Center is also available for this kind of legal help). Legal aid office information can be found at <http://www.ohiolegalservices.org/programs> or by calling 1-866-LAW-OHIO.

So am I eligible to get my record sealed? How do I do that?

The series of questions on the following pages will help you determine if you are eligible for expungement. Following those are instructions on how to apply.

Eligibility for Sealing of Adult Criminal Convictions

QUESTION 1: What was the underlying crime you were convicted of? Is it a prohibited offense?

The law is very clear that following convictions can **never** be sealed, even it is your only conviction:

- Any **first or second degree felony**
- Any offense with a **mandatory prison term**
- Any **'offense of violence,'** which means:

2903.01 Aggravated murder	2907.03 Sexual battery	2917.31 Inducing panic
2903.02 Murder	2907.05 Gross sexual imposition	(*exception: this <i>can</i> be expunged if it is only a first degree misdemeanor)
2903.03 Voluntary manslaughter	2907.12 (former) Felonious sexual penetration	2919.25 Domestic violence
2903.04 Involuntary manslaughter	2909.02 Aggravated arson	2921.03 Intimidation
2903.11 Felonious assault	2909.03 Arson	2921.04 Intimidation of attorney, victim or witness in criminal case
2903.12 Aggravated assault	2909.24 Terrorism	2921.34 Escape
2903.13 Assault (*exception: this <i>can</i> be expunged if it is only a first degree misdemeanor)	2911.01 Aggravated robbery	2923.161 Improperly discharging firearm at or into a habitation, in a school safety zone or with intent to cause harm or panic to persons in a school building or at a school function
2903.15 Permitting child abuse	2911.02 Robbery	2911.12 Burglary (*Division (A)(1), (2), or (3) of section)
2903.21 Aggravated menacing	2911.11 Aggravated burglary	2919.22 Endangering children (*Division (B)(1), (2), (3), or (4))
2903.211 Menacing by stalking	2917.01 Inciting to violence (*exception: this <i>can</i> be expunged if it is only a first degree misdemeanor)	
2903.22 Menacing	2917.02 Aggravated riot	
2905.01 Kidnapping	2917.03 Riot (*exception: this <i>can</i> be expunged if it is only a first degree misdemeanor)	
2905.02 Abduction		
2905.11 Extortion		
2907.02 Rape		

- Also any sexual offense not already listed, including:

▷ Unlawful sexual contact with a minor	▷ Importuning
▷ Illegal use of a minor in nudity-oriented material or performance	▷ Pandering obscenity involving a minor
▷ Sexual imposition	▷ Pandering sexually oriented matter involving a minor
- Knowingly offering to sell a car whose odometer was tampered with
- Tampering with an odometer
- Sale or possession of a master key designed to fit more than one vehicle
- Driving under suspension (after DUI or refusing to take breathalyzer/chemical test)
- Offenses with purpose to conceal or destroy identity of car or its parts
- DUI • Street racing • Various types of hit-and-runs • Leaving the scene of an accident

Note: Traffic offenses can never be sealed, but they are not counted as a criminal conviction unless it is one of the traffic offenses listed above.

 If you have any of the offenses listed under QUESTION 1, you **CANNOT** have that conviction record sealed.

 If you do *not* have any of the offenses listed above, go on to **QUESTION 2**.

QUESTION 2: Was the conviction your *only* criminal offense?

To be eligible for sealing, you must fit the law’s definition of a ‘first offender.’ That means that you have **one and only one conviction in Ohio or any other state**. This does not mean your first felony conviction—it means first misdemeanor *or* felony. **But:**

- **Big exception: You can have multiple minor misdemeanors sealed** so long as you have only one or zero other ‘real’ misdemeanors or felonies. In other words, minor misdemeanors do not count towards your ‘one and only one’ offense. A minor misdemeanor is a ticket-only offense; it is less than a fourth-degree misdemeanor. To be a minor misdemeanor, jail-time or probation could not have been a possible sentence and the maximum *possible* fine was \$150.

Examples: Tickets for open flask, after hours in the park, minor misdemeanor drug possession (a.k.a. ‘weed tickets’), jaywalking, loud noise, and disorderly conduct.

- If you have **two or more convictions based on the same criminal act**, the multiple convictions will be **treated like one conviction** when you apply to have the records sealed.

Example: You were convicted of shoplifting and resisting arrest in the same incident. The court will consider the two separate convictions as one conviction when you apply to seal the records. These charges may be charged under the same case number or separate case numbers, so long as they arose out of the same set of facts.

- If your **two or three convictions** were *not based on the same criminal act*, but resulted from the same court proceeding and the convictions were for related criminal acts committed within three months of each other, the multiple convictions *may* be treated like one conviction.

Example: You have two convictions for passing bad checks on March 1st and May 10th, and you were convicted of both at the same court proceeding, **the court has the discretion** treat the two convictions as one if you apply to have records sealed. The court can also decide that it is not in the public interest to treat the multiple convictions as one.

- ⊘ If you have more than one conviction (misdemeanor or felony from anywhere), you **CANNOT** have *any* of your criminal conviction records sealed.
- ↓ If you have only one ‘real’ misdemeanor or felony (that wasn’t already excluded under QUESTION 1), go on to **QUESTION 3**. Remember: multiple minor misdemeanors are OK.

QUESTION 3: Are there any other criminal charges pending against you right now?

- ⊘ The court will not seal your conviction record if you have any criminal charges pending against you. Wait until those charges are completely dealt with. If any of your convictions or non-convictions are eligible to be sealed at that point, then apply to the court.
- ↓ If you have no charges pending against you, on to **QUESTION 4**.

QUESTION 4: How many years has it been since you completed your sentence?

You must wait a certain amount of time after the ‘**final discharge**’ of the sentence for your conviction before you may apply for the record to be sealed. *Final discharge* means you finished serving any jail or prison sentence, any term of probation or parole, and paid any fines or court costs.

- For **misdemeanors** (including minor misdemeanors) you must wait **one year** after the final discharge of your conviction to apply to have your conviction record sealed.
- For **felonies** you must wait **three years** after the final discharge of your conviction to apply.

 If you haven’t satisfied the waiting period yet, wait to apply until you do.

 If you have satisfied the waiting period, congratulations! You are eligible to get your record sealed. Go to the **APPLICATION INSTRUCTIONS** section of this packet.

Sealing Dismissed or Not Guilty Records

If your criminal record shows that the charges against you were **dismissed** or you were found **not guilty (acquitted)** by a judge or jury, answer the following questions to determine if you are eligible to have those records sealed.

QUESTION 1: Were all the criminal charges against you either dismissed or acquitted?

- ⊘ If you were convicted on one or more charges that arose out of the same incident while other charges were dismissed, you **CANNOT** get the dismissed charges sealed *unless* you are also eligible to get the convictions sealed as well (see the earlier rules for sealing convictions).
- ↓ If *all* charges in the case were dismissed, SKIP QUESTION 2. Go to QUESTION 3.

QUESTION 2: Was a No Bill issued in your case? Were the charges against you Ignored?

In most felony cases and in some misdemeanor cases, the prosecutor first brings the charges and some minimal evidence against you before a *Grand Jury*. The grand jury then decides whether or not to indict you on those charges. If the grand jury decided that there was not even enough evidence for the prosecutor to go forward on the charges, they issued a *No Bill* (this is also referred to as an *Ignored* case).

- If yes, you must wait **two years** from the date the No Bill was issued to apply. This is because the prosecutor has two years within which to re-file the charges.
- ↓ If it has been more than two years since your case was ignored (since the No Bill was issued), go to QUESTION 3.

QUESTION 3: Are there any criminal charges pending against you right now?

- ⊘ If *Yes*, the court will not seal your record at this time. Wait until those charges are completely dealt with. If any of your convictions or non-convictions are eligible to be sealed *at that point*, then apply to the court.
- ↓ If you have no charges pending against you, **congratulations!** You are eligible to get your non-conviction record sealed. There is **no waiting period** for non-convictions. Go to the **APPLICATION INSTRUCTIONS** section of this packet.

Application Instructions

STEP 1: Contact the clerk of courts office

The clerk of courts is the official who is responsible for all of the files for every case ever filed in a particular court, including your criminal cases. For each court where you were sentenced find out:

- a) the **case numbers** of every conviction and non-conviction on your record;
- b) the **name** (e.g. drug possession, theft, assault) and **degree** (e.g. 1st degree misdemeanor or ‘M1’) of each of your offenses;
- b) the **date** you were **convicted**; and
- c) the **date** you **completed** your entire **sentence** (jail/prison or probation/parole completed, fines paid).

You can go in person, call by telephone, or, in many counties, search the clerk’s website. You can find web links for Ohio courts at http://www.sconet.state.oh.us/Web_Sites/courts or go to <http://www.ohiojudges.org> and click on “Ohio Courts” under “Links.”

STEP 2: Ask the clerk for their expungement forms

Although the word “expungement” is not actually used in any of the relevant state statutes, many clerks offices still refer to this process by that name and they will refer to their forms that way. Again, some courts also have procedures and forms for record sealing (expungement) online. It is important to review them in case the court you are dealing with has specific procedural requirements. There is no standard form accepted in every court in Ohio—many prefer that you use their forms. The clerk may have different forms for sealing convictions, dismissals, or acquittals, so make sure you get the right packet of forms. Also ask how many copies of the forms you will need to file. Complete the application forms and make the copies the court needs, along with an extra copy for yourself.

STEP 3: File the Application

Bring the completed forms and copies back to the clerk’s office. **You must file in the county where the case originated.** Also, you will need to pay a **\$50 fee** for filing an application to seal a **conviction** record. Filing an application to seal a record of **acquittal, dismissal, or No Bill** is always free.

If you cannot afford the fee for conviction-record sealing, **you have the right to have the fee waived.** Do not be dissuaded by a clerk who tells you, “We just don’t do that around here.” **Demand permission to file a poverty affidavit** (they should have such a form). File a completed and **notarized** poverty affidavit with your application. The judge will review your poverty affidavit, and if the judge concludes that you cannot afford the application fee, the fee will be waived.

Step 4: Decide if you need an attorney

If at any point you feel that the process is too confusing or intimidating, or that the clerk’s office is giving you the run-around, **get an attorney.** Many legal aid offices (and, in Hamilton County, the Ohio Justice & Policy Center) assist with expungement/record sealing for qualified low-income people. You can also pay a private defense attorney to handle your expungement. You can find the

legal aid office in the county where you want to apply for record sealing by visiting <http://www.ohiolegalservices.org/programs> or calling 1-866-LAW-OHIO.

STEP 5: Get a hearing date

Depending on your local clerk's practices, you may **get a hearing scheduled** right when you file or later in the mail. The judge will also notify the prosecutor of your hearing date. If the prosecutor does not want the judge to seal your record, **the prosecutor may file an objection** that includes specific reasons before the hearing. Between when you file and the hearing date, most courts ask their probation department to verify that you are eligible; that may include running a national criminal background check. **The probation department may call you** with questions during this time as well.

STEP 6: Prepare What You Will Say

A judge is required to decide whether you have been rehabilitated before sealing your record. If the prosecutor objects, the judge is also supposed to weigh whether it is in the public interest for your record to be sealed. So, be prepared for the judge to ask you what you have been doing since you were charged or convicted and why you want your record sealed. The judge wants to hear that you have turned your life around. For instance, if you were convicted of a drug-related crime, you should mention if you have received any substance abuse treatment since your conviction or if you are involved with a substance abuse support group.

If you have an attorney, they should help you think through and prepare what you will say.

STEP 7: Go to the hearing

If you don't show up, your application for record sealing will almost certainly be denied. At the hearing, the judge will listen to your reasons for requesting that your record be sealed and will listen to any objection from the prosecutor. The court will follow the strict eligibility rules and decide whether to grant your request for sealing. The judge usually decides whether or not to seal your record at the hearing. However, if the judge decides after the hearing, you will be notified by mail.

If the judge grants your application, **congratulations! You're on your way to a fresh start!**

If you were denied and don't understand why, seek out an attorney.

STEP 8: Great! What now?

It often takes up to six weeks for the court, police, and other agencies to seal all the records pertaining to your case. After that point, your conviction, acquittal or dismissal should no longer appear when a potential employer, landlord, or anyone in the general public runs a check of your criminal history. It is as if charges, court proceedings, and even a conviction, never happened. You can legally say on job and housing applications that you have not been convicted of the sealed crimes.

However, your record can still be seen by prosecutors and the police if you are involved in a criminal investigation in the future for another crime. If you are convicted of a crime in the future, judges and juries consider your prior convictions for sentencing purposes, even if your records for the conviction are sealed.

Also, state law permits several types of employers, such as police departments, child-care providers, schools, and nursing homes, to see your sealed record if you apply for a job with them.

Juvenile Records

Juvenile justice records are *not* criminal records, and juveniles do *not* receive criminal convictions. Instead, juveniles who break the law are referred to as “adjudicated delinquents.” In fact, when a person with ONLY a juvenile record is asked whether he/she has been convicted of a crime, the legally-correct answer is “No.”

Who can access juvenile records?

Since juvenile justice records are not public information, they will not appear on most background checks. The records will not appear on a check from the Clerk of Courts, a sheriff’s check, or on private background checks. However, violent offenses and offenses that would have been a felony if committed by an adult *will* be accessible in a few cases. This includes background checks for jobs in hospitals, schools, daycares, security, and others. Also, juvenile records are available to the police, courts and prosecutors.

If you have been denied public housing because of a juvenile record, or if you believe a background check mistakenly revealed a juvenile record please contact the Ohio Justice & Policy Center.

Sealing juvenile records

Unlike for adult criminal records, sealing a juvenile record is *not the same* as expunging it. Sealed records are removed from the person’s main criminal history file and secured in a separate file accessible only to police, courts and prosecutors. Sealed juvenile records will not appear on any background checks for employment or housing

Juvenile justice records are not automatically sealed at 18 years of age. A person may apply to seal a juvenile record 2 years after the final discharge of the offense (i.e., termination of probation), even if the person is still a juvenile. To seal a juvenile record, obtain and submit the appropriate forms at the Juvenile Clerk of Courts Office. There is no filing fee for sealing juvenile records. The applicant may be required to attend a hearing to determine whether the record can be sealed. But any outstanding court fees from the original case must be paid before the court will consider your juvenile-record-sealing request.

To decide whether a record will be sealed, the court considers: age at time of offense, nature of offense, continued problems with the law, as well as other factors.

Expunging juvenile records

An expunged juvenile record is totally destroyed, in physical and electronic forms, so that the record is permanently irretrievable. A juvenile record can be expunged any time after it is sealed. If a person does not apply for expungement after sealing a juvenile record, expungement will occur automatically 5 years after the record was sealed or when the person is 23 years old (whichever happens first).

Advice for Individuals Not Eligible for Expungement

For people who are not able to expunge their criminal record, other options exist. There are a variety of services helping people with criminal records with re-entry, housing, employment, and other issues (see page 9). People may also seek executive pardons from the Governor as “forgiveness of guilt and punishment.” However, few pardons are granted: in the six years 1999-2004, forty-eight pardons were granted by the Governor.

There are several strategies for a person with a criminal record to increase the chances of obtaining employment or housing.

- **Enroll in a job training program**, particularly one specifically designed to assist ex-offenders. Such programs have established long-standing relationships with employers who are willing to hire ex-offenders that complete the program.
- **Obtain letters of recommendation** from previous employers, landlords, or respected community members who can testify to your character and skills. Some people are uncertain if an ex-offender can be a good employee or tenant. Providing positive information about your past will suggest that you should not be defined by your criminal record.
- **Include a short explanation about why the conviction would not prevent you from being a successful employee/tenant.** Many applications ask “Do you have a past criminal conviction?” or “Have you ever been arrested?” If you answer “Yes”, it may be helpful to add an explanation about why your criminal record should not be a concern. If the offense was committed long ago, for example, indicate that it has been many years since the conviction. If the explanation is very complicated, you can always write “Will discuss at interview.”

Example: “I was arrested for drug possession six years ago. This occurred during a very immature time in my life, and I have had no criminal history since then. I have positively changed my life after the arrest by continuing my education, focusing on rehabilitation through therapeutic groups, and completing an employment training program. I no longer am the person that I was six years ago, and I know that I can be a valuable, effective employee for your company.”

- **Do not lie on your application.** If an employer conducts a background check (which they likely will), they will discover if an applicant lies about a criminal record. Even if they would have hired an ex-offender, employers almost certainly will not hire applicants who lie on their application.
- **Be prepared to answer questions about your record.** Practice answering these types of questions in a mock interview or aloud to yourself. Mention that you have completed all required terms of the conviction, and explain how you have taken steps toward rehabilitation or personal improvement since the offense. Do not make excuses or go into graphic detail about your offense. Do not spend most of the interview focused your criminal history. The important message is that you would be a valuable employee and would not repeat the mistakes of your past.
- **Know the limits.** According to Ohio law, jobs that involve contact with children or the elderly (nursing homes, health agencies, day cares, schools, etc.) cannot legally hire an applicant who has been convicted, at any time, of certain “disqualifying offense.” In some cases, employers may choose to hire applicant who meets all “rehabilitation standards” specified by Ohio law. If you would like to work with children or the elderly, and you have a criminal record, verify whether you can legally work in those fields and be aware of the legal barriers to employment in Ohio. Contact the Ohio Justice & Policy Center for details and questions on “disqualifying offenses.”

What if I can't get my record sealed?

How do I get a pardon?

The Ohio Parole Board and Governor Kasich consider various forms of clemency applications, one of which is a **pardon**. A pardon is a complete forgiveness for a crime committed, eliminating all penalties and other legal consequences for the commission of a crime. An individual granted a full and unconditional pardon is deemed, by law, to have never committed the offense. Once granted a pardon, you are also entitled to get your record sealed, even if you were not otherwise eligible under the criminal-records-sealing statutes described earlier in this manual.

A pardon is the remission of a penalty. It is an act of grace or forgiveness that relieves the person pardoned from some or all of the ramifications of lawful punishment. A pardon may be conditional or unconditional.

Executive Clemency can only be granted by the Governor of the State of Ohio. Section 2967.07 of the Ohio Revised Code requires that all applications for clemency be made in writing to the Adult Parole Authority. The Ohio Parole Board is the bureau of the Adult Parole Authority assigned to process clemency applications. The Governor may also direct the Parole Board to investigate and examine any case for the propriety of clemency. Upon completion of its examination, the Parole Board sends a report to the governor providing a summary of the facts in the case, a recommendation for or against the granting of clemency, and the reasoning behind the recommendation.

The individual granted pardons have demonstrated that they have been rehabilitated and have assumed the responsibilities of citizenship. Most of the governor's favorable clemency decisions are grants of pardons associated with minor and/or non-violent offenses. In every case these pardons have been granted to individuals who have completed their sentence, usually many years ago. Virtually every case involves an individual who has not reoffended with the exceptions of traffic violations.

In 2009, the Governor granted clemency 33 times, 29 (46%) of which were pardons, of the 63 clemency requests from 2005 and 2006. Of the 233 clemency requests from 2007, 45 clemencies were granted, 39 (17%) of which were pardons.

The Ohio State Legal Services Association (OPLC's parent organization) pardon informational guide is attached and contains detailed information about applying for a pardon or executive clemency.

PARDONS



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PARDON

WHAT IS A PARDON?

The partial or full discharge of a penalty by the Governor. A pardon is one type of executive clemency. It results in the forgiveness of guilt and punishment.

You can request a pardon by completing an “Application for Clemency.” Once you apply, your request will be considered, but you have no right to have your request granted. The Governor can grant or deny a pardon request for any reason or no reason at all.

PARDON

Pardons are a good way to erase criminal convictions from your record. While some crimes can be sealed, multiple convictions or convictions of certain violent crimes can only be taken off your record with a pardon. A pardon will also restore your rights as a citizen, including: your right to obtain professional licenses, serve on a jury, or work for a public agency.

HOW IS A PARDON DIFFERENT FROM A REPRIEVE OR PAROLE?

A *reprieve* is only a temporary (short-term) suspension of a sentence by the Governor, while a pardon is permanent.

Parole means a release from confinement that is under set terms and conditions, and for a set period of time. A person out on parole will be supervised, and their record will still show they were convicted of a crime.

A *pardon* not only releases you from confinement without any supervision, it also erases guilt for the crime charged. However, pardons in Ohio are usually only granted after release from imprisonment or completion of parole.

WHO IS ELIGIBLE TO APPLY FOR A PARDON?



Ohio law says that anyone who has been convicted in the State of Ohio for any crime may apply for a pardon.

HOWEVER, pardons in Ohio are most likely to be granted to people who: 1) have successfully completed their jail/prison sentence; 2) have completed parole, probation, or other supervision; 3) have paid all court ordered restitution and fines; and 4) have spent several years living crime-free.

WHAT DOES A PARDON DO?

Pardons can be FULL or PARTIAL.

A **full pardon** will set you free from prison and the custody of the law, prevent further court action regarding the conviction for which you were pardoned, eliminate all guilt, and leave you (from a legal standpoint) in the same condition as if the crime had never been committed.

After a pardon has been granted, if anyone (employer or government agency) asks you if you have a criminal record, you can honestly say, "No."

For example, say your conviction prevented you from obtaining a license of some kind or applying for a certain governmental job. After the pardon is finalized you can apply for that license or job, without having to mention the conviction for which you have been pardoned at all.



CAUTION



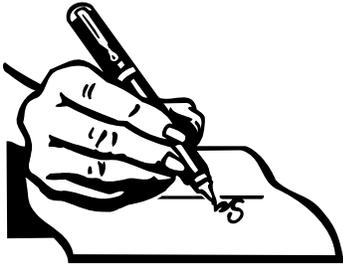
Once you are granted a pardon, you should bring a copy of the warrant (document granting you the pardon) to the Clerk of Court's office where you were convicted and specifically request that your record relating to this crime be sealed.

You should also contact the agency that arrested you (sheriff, police, highway patrol), and the Bureau of Criminal Identification and Investigation and request that all records of your arrest or conviction for the pardoned crime be sealed. You should do this in writing and include a copy of the warrant as well as your contact information. You should send this via a trackable method and keep a complete copy for your records.

A **partial pardon** will release you from punishment, yet will not erase your record for the crime. (You will still be considered guilty of the crime for which you were pardoned and all information about your conviction will still appear on background checks.)

DO I HAVE TO AGREE TO DO ANYTHING IN EXCHANGE FOR A PARDON?

Maybe. Pardons can be granted with no conditions, or they can be granted upon the condition that you do certain things before or after the pardon is granted, such as: paying back child support owed, paying fines and costs associated with your crime, agreeing never to purchase or own a gun, agreeing never to practice medicine again, or agreeing to have only supervised contact with the victim.

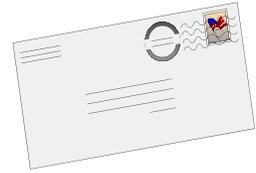


If a pardon contains such a condition, the pardon will not take effect until you accept the conditions imposed. You accept these conditions by signing the warrant (the document granting you the pardon and stating the conditions of the pardon) in front of one witness and returning the signed warrant to the Governor for his/her signature. The Warrant of Pardon is not effective until the Governor signs it and sends it on to the Clerk of Courts office.

STEPS TO OBTAINING A PARDON:

1. Write a Letter to the Ohio Adult Parole Authority

Write a letter to or call the Ohio Adult Parole Authority requesting an application for “executive clemency and application instructions and guidelines.” Use the fill-in-the-blank letter contained on page 10 of this packet or write your own. Send the letter to:



Ohio Parole Board
Clemency Section
770 West Broad Street
Columbus, OH 43222
(614) 752-1200
(888) 344-1441

The application and instructions are also available online at:
<http://www.drc.ohio.gov/web/forms/DRC3068.pdf>
<http://www.drc.ohio.gov/web/forms/DRC3068instructions.pdf>

You can also email the same information in your letter to drc.clemency@odrc.state.oh.us.

2. Complete the Application Form

Within a week of mailing the letter, you should receive an application form and instructions from the Ohio Parole Board. A sample application is contained on pages 11 and 12 of this packet.



CAUTION

Do not try to copy and use this application —
You must write a letter and get your own copy of the application!

Complete the application. Do not skip any questions—if your application is not complete it will be returned to you. Use the sample application as a guide.



REMEMBER: Since there are three different types of executive clemency, you must indicate that you are requesting a PARDON.



CAUTION

At the end of the application, there is a space for your signature.
Do not sign the form until you are in the presence of a notary public.
Most libraries and banks have notaries. Take the completed form to a



notary public and sign and date the form while they watch. Then the notary public will then stamp and sign the document as well.

3. Collect the Required Documents

After the application is complete, collect the following documents and attach them to your application. You may have to pay a fee to get a copy of each document.

	<u>Name of Document:</u>	<u>Where to Find Document</u>
You MUST submit	Indictment <i>or</i> Bill of Information for each conviction you seek to have pardoned	Clerk of Court's office of the court where you were convicted
You MUST submit	Judgment Entry of each conviction and sentence for each crime you seek to have pardoned	Clerk of Court's office of the court where you were convicted
You MUST submit ONLY IF you were paroled or granted probation	Certificate of Parole <i>or</i> Journal Entry ending probation	Adult Parole Authority <i>or</i> Probation department in your county or municipality
You SHOULD submit	Letters of Support	Friends, family members, employers, and other community members familiar with you. Contact people early. Tell them to write a letter, put it in a sealed envelope, and give it to you. It helps if the person writing the letter knows of your conviction(s) and states that they support your pardon. Letters of support must be attached to your application or they will not be considered.
You SHOULD submit	Copies of diplomas <i>or</i> Copies of certificates <i>or</i> Copies of documents reflecting your education and work history	Educational institution that issued the document

4. Make Copies & Mail to Ohio Parole Board

After you have collected all the proper documents, make TWO copies of the application and TWO copies of each document attached. **Keep one copy of everything for yourself.** Mail the original and one copy to the Ohio Parole Board (at the address listed on page 4).



5. Review & Investigation by Parole Board

After the application is submitted, the Parole Board will review your application to make sure that you have submitted all the required paperwork. If your application is incomplete, it will be returned to you. If this happens, provide the missing information or document, and mail it back.

Under Ohio law, the Parole Board must give a recommendation (for or against your request for a pardon) to the Governor. To assist in making this recommendation, the Parole Board may decide to conduct an investigation of your case. There are two ways this investigation could occur:

First type of Investigation – with a hearing:



As soon as the Parole Board gets your application, they will vote on whether or not a hearing is necessary in your case or whether a recommendation can be issued without a hearing. If the Parole Board determines that a hearing is necessary, you will be notified of the date, time, and place of the hearing.

What happens at the clemency hearing?

At the clemency hearing, the Parole Board will vote for or against your request.

You can attend the hearing if you want, but are not required to do so. It is generally best to attend the hearing. If you attend, you will be able to explain your situation to the Parole Board and answer any questions they may have. Also, you have the right to have an attorney at the hearing.

Second type of Investigation - without a hearing:



If the Parole Board decides a hearing is not necessary, they may still investigate aspects of your life, including: your conduct while imprisoned, your mental and moral qualities and characteristics, your knowledge of a trade or profession, your former means of livelihood, your family relationships, and any other matters affecting your fitness to be at liberty without being a threat to society.

6. Victim & Prosecutor Notified of Request

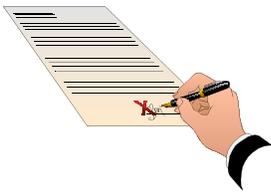
The Parole Board will notify the prosecuting attorney and/or trial judge from the court where you were sentenced of your request for a pardon. The trial judge and prosecuting attorney will give the Parole Board a summary of the facts proven at trial, any other facts they think the Parole Board would want to know before making a recommendation, and their own opinion as to whether or not you should be granted a pardon.



If at the time of your conviction the victim requested to be notified of any pardon request, the victim will also be notified of your request and have the chance to make a statement. If the victim makes a statement, this statement must be taken into consideration by the Parole Board when deciding whether or not to recommend clemency.



7. Parole Board Recommendation



After the investigation is completed, the Parole Board will give a written report to the Governor. The report will contain a brief statement of the facts in the case, the Board's recommendation for or against the granting of a pardon, and the reasons for that recommendation.

The Board will only recommend clemency if “such action would further the interests of justice and be consistent with the welfare and security of society.”



REMEMBER:

The Parole Board's recommendation does not control whether or not you will be granted a pardon. The Governor has the final say. Even if the Parole Board recommends that you be given a pardon, the Governor could deny your request.

8. Governor's Review & Decision

The Governor does not have to follow the recommendation of the Parole Board. The Governor can grant or deny the pardon—even if the Parole Board recommends otherwise.



Pardon Granted:

If the Governor grants you a *full pardon*, copies of the “warrant of pardon” will be issued—one will be sent to you and one will be filed with the Clerk of Court in the court where you were convicted.

If the Governor grants you a *conditional pardon*, a copy of the “warrant of pardon” will be sent to you. You must sign the warrant and send it back to the Governor’s Office for the Governor’s signature. By signing the warrant, you are agreeing to the conditions the pardon is based upon.

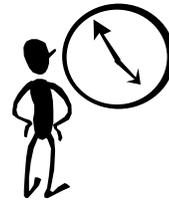


Pardon Denied:

If the Governor denies your request for a pardon, you will be notified of this denial.

HOW LONG WILL IT TAKE?

The entire process usually takes six to eight months to complete. However, the Governor can take as long as he/she wants to make a decision; there is no deadline by which the Governor must render a decision.



CAN A PARDON BE REVOKED (TAKEN BACK) AFTER IT IS GRANTED?

Generally, no! Once you have been granted and accepted a general and unconditional pardon, it is not subject to revocation by the Governor or any other person, unless the procedure followed was improper.

The only way a pardon can be revoked is if the Governor did not follow the proper procedures in issuing the warrant. (The Governor made a decision on the pardon before the Parole Board made its recommendation.)

WHAT IF MY REQUEST IS DENIED?

If your pardon is denied, there is no way to challenge this denial in the courts or otherwise. It is over for now. You can always reapply at a later date by writing the Parole Board and requesting another application. In Ohio, it is best to wait at least two years before you reapply.



WHAT IF MY REQUEST IS GRANTED?

All disabilities you suffered as a result of your conviction will be lifted.

If your conviction prevented you from obtaining a professional license, you can now obtain that license.

If your conviction prevented you from owning a gun, you can now purchase that gun.

When filling out job, apartment, or other applications that ask if you have a criminal record, you can honestly answer no. Once a conviction has been pardoned, it is as if it never occurred.

You can now serve as a juror and/or hold public office.

However, a pardon does not entitle you to a return of any fine or court costs paid in connection with your case.

Name

Address

today's date

Ohio Parole Board
Clemency Section
770 West Broad Street
Columbus, OH 43222

To Whom it May Concern:

I am interested in applying for an Executive Clemency in the form of a Pardon. Please send me a copy of the Application for Clemency, including forms and instructions at the address listed above.

Thank you.

Sincerely,

signature

OHIO PAROLE BOARD APPLICATION FOR EXECUTIVE CLEMENCY

1.

APPLICANT'S NAME: MICHAEL SIMMONS	ALIAS (OTHER NAMES YOU HAVE GONE BY):
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2. IF CONFINED:

INSTITUTION:	INSTITUTION NUMBER
--------------	--------------------

3. IF NOT CONFINED:

ADDRESS: STREET	CITY	STATE	ZIP
357 APPLE HILL ROAD	COLUMBUS	OHIO	43215

4.

DATE OR BIRTH: 5/27/65	AGE: 35
-------------------------------	----------------

5.

TYPE OF CLEMENCY REQUESTED: PARDON

6. OFFENSES FOR WHICH CLEMENCY IS REQUESTED (SEE INSTRUCTIONS)

YOU CAN GET THIS INFORMATION FROM THE INDICTMENT, JUDGEMENT ENTRY OF CONVICTION AND SENTENCE THAT YOU OBTAIN FROM THE CLERK OF COURTS OFFICE OF THE COURT WHERE YOU WERE CONVICTED

COUNTY	CASE NO.	CRIME	SENTENCED	DATE CONVICTED
FRANKLIN	CR 019895	DRIVING UNDER INFLUENCE	30 DAYS	9/20/95
FRANKLIN	CR 019895	RESISTING ARREST	10 DAYS	9/20/95
CUYAHOGA	CR 017794	BREAKING & ENTERING	6 MONTHS	8/2/94

7. *YOU MUST PROVIDE THIS INFORMATION FOR EVERY CRIME FOR WHICH YOU SEEK A PARDON (ATTACH SEPARATE SHEETS OF PAPER IF NECESSARY)—YOU CAN GET THIS INFORMATION FROM THE ADULT PAROLE AUTHORITY OR PROBATION DEPARTMENT YOU DEALT WITH.*

DATE ADMITTED: <i>DATE YOU ENTERED PRISON/JAIL</i>	PAROLE ELIGIBILITY DATE: <i>NOT DATE YOU WERE PAROLED, BUT THE FIRST DATE WHEN YOU COULD HAVE BEEN PAROLED</i>
EXPIRATION OF DEFINITE SENTENCE DATE:	
DATE PAROLED:	FINAL RELEASE DATE:
DATE GRANTED PROBATION:	PROBATION COMPLETED:

8. ARREST RECORD: (JUVENILE & ADULT)

INCLUDE INFORMATION ON THE OFFENSES FOR WHICH YOU SEEK CLEMENCY AS WELL AS FOR OTHER OFFENSES YOU HAVE ON YOUR RECORD

9.

MARITAL STATUS: SINGLE	NO. OF DEPENDENTS: FOUR
EDUCATION: ASSOCIATES DEGREE IN COMPUTER PROGRAMING	

EMPLOYMENT HISTORY(PAST FIVE YEARS):

EMPLOYER	ADDRESS	TELEPHONE NUMBER	EMPLOYMENT DATES
LUCRATIVE TECHNOLOGY	548 Gordo Rd Columbus, Oh 43213	(614) 555-8922	1/20/98 to present
MIKE'S CAR REPAIR	832 West Luck Ave Columbus, Oh 43201	(614) 555-2451	11/25/95-12/1/97

10. REASONS CLEMENCY IS REQUESTED (USE ADDITIONAL SPACE IF NECESSARY)

In the early 1990s, my life was a mess. I was addicted to crack cocaine and drank nearly 18 beers a day. Being arrested in 1995 forced me to look at my life and gave me the opportunity to change things for the better. With the help of my counselor and my AA group, I have remained clean and sober since December 1995. Sobriety has allowed me to obtain and keep a good job and establish a healthy relationship with my children.

Since my last arrest, I have lived a crime-free life. I have done various things to rehabilitate myself, including: attending weekly AA meetings and counseling sessions once a month with my therapist. I attended night school at Franklin County Community College for two years and in December 1997, I obtained my certificate in computer programing. I have been employed full-time as a computer programer for the same company since January 20, 1998.

Since my last conviction, I have been a good parent to my children. I have paid all of my child support payments in full and on time, visited with my children every other weekend (as our visitation agreement allows), and attended every one of my son's high school baseball games. I enjoy spending time with my children and am proud to show them that their father is living well and working hard.

11. ATTACHMENTS: (SEE INSTRUCTIONS)

LETTERS IN SUPPORT **SEND ALL ATTACHMENTS WITH THIS APPLICATION—INCLUDING LETTERS**
COURT PAPERS **OF SUPPORT. IF ATTACHMENTS ARE NOT INCLUDED, YOUR APPLICATION**
DIPLOMAS **WILL BE RETURNED TO YOU AS INCOMPLETE.**

I HEREBY SWEAR THAT THE INFORMATION CONTAINED IN THIS APPLICATION AND THE ATTACHED DOCUMENTS IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

DO NOT SIGN OR DATE THIS UNTIL YOU ARE IN FRONT OF A NOTARY PUBLIC

APPLICANT'S SIGNATURE

DATE

THIS IS WHERE THE NOTARY SIGNS — LEAVE THIS BLANK!

SWORN AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____.

NOTARY PUBLIC: _____ MY COMMISSION EXPIRES: _____